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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/038,346	01/02/2002	Michael L. Obradovich	9800.1028	8390

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Alex L. Yip
Kaye Scholer LLP
425 Park Avenue
New York, NY 10022

EXAMINER
LOUIS JACQUES, JACQUES H

ART UNIT	PAPER NUMBER
3661	

DATE MAILED: 08/14/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/038,346	OBRADOVICH, MICHAEL L.	
	Examiner	Art Unit	
	Jacques H. Louis-Jacques	3661	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *08 July 2002* .

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *129-145* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *129-154* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in-
> (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or
> (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

2. Claims 129-154 are rejected under 35 U.S.C. 102(e) as being anticipated by Ross et al [5,859,628].

Ross et al '628 discloses an apparatus and method for a personal onboard information system, wherein it is determined whether a vehicle needs a service, e.g., maintenance (column 10), positions or locations of the vehicle and at least one service providers are obtained using GPS (columns 8 and 10), and a service provider closest to the vehicle position is selected (column 10). According to Ross, there is provided a database or memory for storing service provider information, e.g., position (column 8). Furthermore, as explained in column 9, information is communicated via audio media or visual (display). A distance between the vehicle and the selected service provided is determined based on the acquired GPS positions of the vehicle and the service provider, and wherein the service provider is selected based on the determined distance (column 10). More particularly, Ross discloses that the system provides the user with information of the nearest rest area in response to the vehicle's position and direction. Route planning

from the vehicle position to the service provider is also provided. As explained in column 10, should vehicle maintenance be required, the location and distance to the nearest repair facility is determined. It is inherent in the art that in order to determine the distance between the vehicle and the service provider and to determine the closest or nearest service provider to the vehicle, the position of the vehicle has to be compared to the position of the service provider.

3. Claims 129-132, 134-141, 143-150, and 152-154 are rejected under 35 U.S.C. 102(e) as being anticipated by Blaker et al [5,790,973].

Blaker et al discloses a last exit warning system for a vehicle, wherein the current position of the vehicle and a plurality of service areas locations areas obtained using GPS. According to Blaker et al, the locations of the service areas can be stored in a memory or database. When it is determined that the vehicle needs service, e.g., refueling, a processor compares the position of the vehicle with the service area locations to determine which one is closer to the vehicle position. See columns 3 and 4. Furthermore, a distance from the vehicle to the service area locations is determined. Based on the determined distance, the closest service area is selected. As described in columns 4 and 5, the information is communicated via an audible or visual message and the position of the vehicle is compared to the positions of the service areas.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 133, 142, and 151 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blaker et al [5,790,973] in view of DeGraaf [5,819,201].

Blaker et al discloses the limitations as set forth above. However, Blaker et al does not particular teach providing directions (route) to the selected service provider. DeGraaf, on the other, discloses a navigation system with vehicle service information, wherein the system guides a vehicle from a current position to a selected service provider (location). See column 2. Thus, it would have been obvious to one skilled in the art at the time of the invention to be motivated to modify the system of baker et al by incorporating the features from the navigation system of DeGraaf because such modification will ensure that the driver (vehicle) reaches the proper location of the service provider.

Response to Amendment & Arguments

6. The amendments along with the arguments filed therewith have been entered and carefully considered by the examiner.

In particular, Applicant has amended the claims to recite that the selected service provider is "within a predetermined distance from the current location of the vehicle".

In regard to Ross, Applicant admitted that the PDA determined, based on the vehicle status information, the location and distance to the nearest repair facility". However, Applicant argued the nearest repair facility "may not be 'within a predetermined distance from the current location of the vehicle'". The Examiner

disagrees. To determine the "nearest distance", the distance, thus obtained, must compared to a predetermined distance. While Ross does not particularly mention the phrase "predetermined distance", it is inherent to one skilled in the art to know the distance must be compared to a "predetermined distance" in order to determine whether it is the nearest distance.

In regard to Blaker, Applicant argued, "nowhere does Blaker teach or suggest selecting a service provider 'within a predetermined distance from the current location of the vehicle'". Applicant even admitted "In accordance with the disclosed technique [of Blaker], the distance from the vehicle's current location to each of the service areas S1 (e.g., at an upcoming exit) and S2 (e.g., at a farther exit) is compared to determined if the remaining fuel in the vehicle is sufficient to reach S2. Thus, the service area is selected based on a predetermined distance set based on the remaining fuel. As to applicant's argument that "Blaker teaches away from the invention", M.P.E.P §2141.02 provides that "a prior art must be considered in its entirety, including disclosures that teach away from the claims." According the M.P.E.P, "[A] prior art reference must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed invention. W.L. Gore & Associates, Inc. v. Garlock, Inc., 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984) "

In regard to DeGraaf, Applicant admitted that "DeGraaf discloses a navigation system with vehicle service information capable of guiding the vehicle from its current position to a selected service provider'. However, Applicant contended that the

combination of the DeGraaf and Blaker patents does not meet the claimed invention. The examiner disagrees.

In light of the above, the rejections are sustained in this office action is made final.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

5,898,392	Bambini et al	Apr. 1999

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacques H. Louis-Jacques whose telephone number is (703) 305-9757. The examiner can normally be reached on M-Th, 8:30 AM - 5:00 PM (Eastern Time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William A. Cuchlinski can be reached on (703) 308-3873. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1111.

Jacques H. Louis-Jacques
Primary Examiner
Art Unit 3661

/jlj
August 5, 2002